

Friday, 30 August, 1946

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Chambers of the Tribunal
War Ministry Building
Tokyo, Japan.

PROCEEDINGS IN CHAMBERS

On an application for leave to have the evidence in Chief of Admiral James O. Richardson, a witness for the Prosecution, presented in the form of a prepared statement instead of by oral examination. Sir William Webb is to announce the decision.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal and
Member from the Commonwealth
of Australia.

Reported by:

John J. Smith
Official Court Reporter
IMTFE

Appearances:

For the Prosecution Section:

BRIGADIER R. H. QUILLIAM, Associate
Counsel, acting on behalf of
New Zealand
CAPTAIN JAMES J. ROBINSON
MR. SOLIS HORWITZ

For the Defense Section:

MR. WILLIAM LOGAN, JR., Counsel for the
Accused KIDO; Koichi
MR. MICHAEL LEVIN, Counsel for the
Accused SUZUKI, Teiichi

For the Office of the General Secretary, IMTFE

MR. C. A. MANTZ,
Deputy Clerk of the Court.

The proceedings were begun at 0900.

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THE PRESIDENT: Well, I think I better give the decision.

I have had the advantage of discussion with my colleagues in connection with this application.

It appears that Admiral Richardson took no part in the operations at Pearl Harbor, so that he speaks with a limited amount of personal knowledge. Now, if he were the admiral who was directly concerned with those operations, I would have no hesitation in directing that he be examined in chief in the ordinary way. However, he speaks really from documents. I have glanced through the report he made. It was not in the form of questions and answers. I am satisfied he is really speaking as an expert. The report is not an extensive one when you consider the number of documents to which he refers. The report is, to a large extent, technical.

I think that, if he were forced to testify in the ordinary way, he would be constantly making reference to his reports and notes to the extent that he would be really reading his report.

Under the circumstances, I do not think the defense would be prejudiced if we grant this application.

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I think that, if he were forced to testify in the ordinary way, he would be constantly making reference to his reports and notes to the extent that he would be really reading his report.

Under the circumstances, I do not think the defense would be prejudiced if we grant this application.

On the other hand, I am inclined to believe that the defense will, to some extent, have the advantage that they will have the Admiral's evidence in chief a fortnight in advance, or for a longer period. That will enable them to prepare an effective cross-examination.

It has been suggested that perhaps the report has, to some extent, been shaped by the prosecution. That involves no reflection on the Admiral. Nevertheless, I think it hardly likely that the prosecution would be able to shape the report of a man of Admiral Richardson's standing. I take it that what he said in the report would be also testified to on the stand.

Under the circumstances, I will decide to grant the application of the prosecution and an order will be issued, as prayed.

MR. LOGAN: Your Honor, there is nothing else we can do. We strenuously object. I would like to make a request that, in this situation, we be granted a greater latitude on the cross-examination of this witness.

THE PRESIDENT: That will rest with the Tribunal as a whole. I am quite sure they will allow any cross-examination that may be regarded as necessary for the defense. We are reluctant, as

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I said the other day, to shut down upon any cross-examination.

That is the decision.

MR. LEVIN: Mr. President, this is a matter that is not concerned with Admiral Richardson's order or Admiral Richardson's report. I state informally, as I have done so before, that I was wondering whether something could not be done about getting documents which are to be used more than 24 hours in advance. Yesterday, I was in court all day, and, yesterday afternoon, we received quite a number of documents which are to be used in this phase of the case.

We have no one to submit the documents to for examination. We work through four o'clock at other work. We are all terribly busy, and I think that some other arrangement could be made to give us these documents in advance. These documents are in the hands of the prosecution for a long time, and we only have them for a day. They have had them for a week or ten days. It is a physical impossibility for us to look at them. I had no time to look at them last night. I think it is very important,

as far as the Court is concerned, that we have an opportunity to read and examine them in advance, and maybe some of the objections we make might be unnecessary, and much time could be saved. In other words, I believe that something should be done about the matter.

I am suggesting that if we had these documents and reports as soon as the prosecution could give them to us, it will help us.

Certainly, this case cannot be prepared properly if we do not have sufficient time. It will take a long time. This is in no way in the spirit of criticism of the prosecution. It is simply a matter of physical ability to do this work.

The main criterion is that we would like to get these documents for a longer period of time. We have things to attend to in the mornings. We have some applications to consider. We do not have any clerks or law-clerks who could be assigned to examine things while we are in court. Very frequently we run out for an hour or two from the courtroom trying to do some of this work, and it is a little difficult because, for instance, we have to be in court all the time, and it is hard for us to run out.

I respectfully make the suggestion, and

rather make it informally. I do not know whether it should be a matter of record. However, I suggest to you, Mr. President-- and I am sure that Mr. Horwitz will do what he can -- that something should be done to remedy the situation.

MR. HORWITZ: As a matter of fact, the prosecution has never limited itself to the 24 hours. We always try to give the documents out before that. There have been instances where that has not been possible. We are set to use certain documents at a certain stage, and the question of giving them 24 hours ahead of time is always observed. The matter of processing is difficult. We have tried to get these documents out in the fastest possible manner so as to get them to the lawyers and give them to the defense. The translations usually take a week before the matter comes up, and we cannot guarantee them for any specific time. We do the very best we can. Now, the documents given out yesterday, they will not come up before Monday or Tuesday, so, you see, that is more than 24 hours time.

The problem has been rather a difficult one. The processing of the documents, together with the translations and mimeographing is tremendous. Sometimes, the translation is wrong, and we have to have a new translation and more new processing.

The translation problem is most difficult. They translate. They check and they double check. It is not sufficient. It has been triple checked. For every document that has been reproduced, the character of the processing takes much time. In the first instance, there is a checking and double checking. We have to get them to the defense as quickly as possible. There is the checking and very often, they have to be reproduced. There are many mechanical steps to be taken. Sometimes, it takes four days for the mechanical processing. It might take a day and night before the document itself is in shape. We are doing the best we can, and will make every effort to get the documents to the defense as soon as possible.

THE PRESIDENT: All right. I have heard Mr. Levin's observations, and we will do all we can for the defense. That is our wish.

(Whereupon, at 0912 the hearing was concluded.)

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